

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DOCKET NO. 1:15-cv-13358-DJC

JEFFREY D. SUMMERS and JEFFREY'S  
HOUSE, INC.,  
Plaintiffs

v.

CITY OF FITCHBURG, MARK A. GOLDSTEIN,  
Individually and in his Official Capacity as  
Assistant City Solicitor of the City of Fitchburg,  
JEFFREY P. STEPHENS, Individually and in his  
Official Capacity as Health Inspector of the City of  
Fitchburg, JOHN J. MORAN SR., Individually and  
in his Official Capacity as Building Inspector of the  
City of Fitchburg, ROBERT LANCIANI,  
Individually and in his Official Capacity as  
Building Commissioner of the City of Fitchburg,  
PHIL JORDAN, SALLY TATA and KEVIN ROY,  
Individually and in their Official Capacities as  
Lieutenants and Chief of the City of Fitchburg Fire  
Prevention Bureau; and Other as Yet Unnamed  
Officials of the City of Fitchburg, Individually and  
in their Official Capacity as Officials of the City of  
Fitchburg,  
Defendants.

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, the Defendants City of Fitchburg, Mark A. Goldstein (Individually and in his official capacity as Assistant City Solicitor), Jeffrey P. Stephens (Individually and in his official capacity as Health Inspector), John J. Moran, Sr., (Individually and in his official capacity as Building Inspector), Robert Lanciani (Individually and in his official capacity as Building Commissioner), Phil Jordan, Sally Tata and Kevin Roy (each individually and in their official capacities as employees of the Fire Department), move for

summary judgment in their favor on all counts of the Plaintiffs' Amended Complaint. See Fed. R. Civ. P. 56. As grounds, the Defendants state that the Plaintiff has not and cannot establish any claims against them and they, thus, are entitled to judgment in their favor. In support of their motion, the Defendants rely upon and incorporate by this reference the accompanying memorandum of law and the following exhibits.

**Exhibit 1.** Deposition of Jeffrey D. Summers

**Exhibit 2.** Application Packet

**Exhibit 3.** February 2, 2013 *Worcester Telegram and Gazette* Article

**Exhibit 4.** April 22, 2013 Letter

**Exhibit 5.** December 5, 2013 Letter

**Exhibit 6.** January 22, 2014 Letter

**Exhibit 7.** April 25, 2014 Agreement

**Exhibit 8.** May 5, 2014 Letter

**Exhibit 9.** May 30, 2014 Letter

**Exhibit 10.** June 9, 2014 Letter

**Exhibit 11.** July 10, 2014 Letter

**Exhibit 12.** February 20, 2015 Letter

**Exhibit 13.** July 28, 2015 Letter

**Exhibit 14.** August 12, 2015 Report

**Exhibit 15.** Depositions of Philip Jordan

**Wherefore**, the Defendants request that summary judgment enter in their favor on all counts of the Amended Complaint against them and that this Court award them such other relief as the Court deems just and proper.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(E) of the Local Rules for the United States District Court for the District of Massachusetts, the Defendants request that they be afforded the opportunity to present oral argument on the issues outlined in this Motion.

*Respectfully submitted,*

The Defendants,  
By their attorneys,

/s/ Gregor A. Pagnini

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Dated: November 16, 2017

**CERTIFICATION PURSUANT TO L.R. 7.1(a)(2)**

I certify that counsel for the Defendants conferred with Plaintiffs' counsel about the filing of the summary judgment motion and attempted in good faith to resolve or narrow the issues presented by the foregoing motion.

/s/ Gregor A. Pagnini

Gregor A. Pagnini, BBO#667659

Dated: November 16, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

/s/ Gregor A. Pagnini

Gregor A. Pagnini, BBO#667659

Dated: November 16, 2017